

# MICHIGAN CIVIL RIGHTS COMMISSION

N E W S L E T T E R

## *Judge Avern Cohn* *MCRC Commissioner 1972-1975* **“Reminisces”**



**I** was appointed to the Commission on January 3, 1972, by Governor William G. Milliken with confirmation coming by the Senate on March 1, 1972, and reappointment in 1975. I succeeded the late Sidney M. Shevitz of Detroit, a member of the first Commission following its creation by the Michigan Constitution of 1963. I resigned on September 15, 1975, because of a ruling by the State Board of Ethics that effectively prohibited my law firm from appearing before the Commission even though I recused myself from the matters they handled. It was simply too much to ask my partners to decline discrimination cases to enable me to serve on the Commission.

During my years I served under three chairpersons, Martha Wylie, Edward L. Barrera and Dalton A. Roberson before becoming chair myself on June 25, 1974. I also served with three directors, Milton J. Robinson, James H. Blair and Ruth Rasmussen. I take pride in my participation in the selection process which led to Ruth's appointment as director. I also remember with particularity the fine service that Thomas J. Peloso, Jr. gave to the Commission as Deputy Director and recall with special fondness working with staff member Janet Cooper.

My years of service preceded the adoption of the Elliott-Larson Civil Rights Act. At the time, the Commission's sources of authority were four-fold: the Constitution of 1963 which created it; the Fair Employment Practices Act of 1955, the 1965 Executive Organization Act which created the Department of Civil Rights, and the Fair Housing Act of 1968.

There were many highlights in the years of my service in the Commission aside from its day-to-day work as the policy making body for the Department of Civil Rights, as well as the final decision maker in administrative cases involving complaints of employment discrimination. Particularly:

- In 1972, the Commission issued a policy statement calling on Michigan employers in making decisions with respect to plant locations to take appropriate action to assure minorities fair employment opportunities at the new locations on the pain of being charged with discrimination. Too often manufacturing plants and the like were relocated to distances beyond the abilities of African Americans and other minorities to reach by public transportation.
- In 1972, the Commission, after a study by Professor Alfred Blumrosen of Rutgers University, revamped its procedures for services to claimants and respondents to better able it to play its roles as a conciliator and adjudicator and to eliminate

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# *MCRC 40th Anniversary, 1964-2004*

## *“Measuring Civil Rights Progress”*

### *In Memoriam*

## *Burton I. Gordin,*

### *Executive Director, MDCR 1964-1970*

*- Editor's Note: The following article was originally printed in the July 1970 Michigan Civil Rights Commission Newsletter in memory of Burton I. Gordin, first Executive Director of the Michigan Department of Civil Rights. Although it was never proven, many suspect that Director Gordin was assassinated for his civil rights leadership.*

*“....Whereas Burton I. Gordin, Executive Director of the Michigan Civil Rights Commission since its inception in 1964 and a veteran of some twenty years as a public spokesman for civil rights, was shot and killed in a downtown Detroit garage on the evening of March 20, 1970. Today the State of Michigan stands shocked and deeply saddened at the senseless and tragic brutality of this slaying of one who had devoted his life to the active battle for minority rights.*

*....The death of Burton Gordin constitutes an immense loss to all peoples of our State....*

*“Born fifty years ago in Philadelphia, Pennsylvania, Burton Gordin graduated from Temple University in 1941, spent two years as a Captain in the Army Signal Corps, and, in 1949, received a master's degree in social work from Bryn Mawr College. He accepted a position as field representative and research associate for the Philadelphia Fair Employment Practices Commission, and, three years later, joined the newly formed Philadelphia Commission on Human Relations, the first agency of its kind in the United States, eventually becoming Commission Director.*

*“Michigan is indebted to Burton Gordin for far more than his six years as director*



*of the State's major civil rights enforcement agency. His forceful and continued efforts led Michigan to the forefront of state attempts to combat prejudice and minority group oppression and gained for him an international reputation in the civil rights area. Recently he was chosen spokesman for a group of nationwide civil rights commissions to testify before a United States Congressional committee investigating fair employment standards; now therefore be it*

*“.... Resolved by the House of Representatives (Senate concurring), that the highest tribute be extended, in memoriam, to Michigan Civil Rights Director Burton I. Gordin, a dominant and effective leader of the struggle for human dignity for all peoples....”*

— From a concurrent resolution by the Michigan Legislature, adopted in April 1970. Presented to the Commission by Rep. Rosetta Feguson (D) Detroit, chairman of the House of Civil Rights Committee.

## Notable Settlements

The following are some of the major settlements in the course of the last three months.

- The claimant alleged she was subjected to unequal terms and conditions of employment, harassed, and discharged because of her sex. Claimant was rehired at a yearly salary of \$16,640.
- Claimant, who is a Black woman, alleged she was not hired because of her race. This matter was settled when the respondent agreed to hire claimant at an annualized salary of \$34,000.
- Claimant, who is a man, alleged he was forced to resign because he complained about sexual harassment. This matter was resolved for a monetary settlement of \$10,455.
- A woman with a mental disability alleged she was denied promotion, harassed, and subjected to unfair terms and conditions of employment because of her disability. This matter was resolved for a monetary settlement of \$30,000.
- A man of Middle-Eastern origin alleged he was subjected to unfair terms and conditions of employment and denied promotion because of his national origin. This matter was resolved for a monetary settlement of \$11,520.

## Judge Avern Cohn...

*Continued from page 1*

a “backlog” of active complaints. Justice delayed is justice denied in administrative agency work as it is in the courtroom.

- In 1974, following an all-day public hearing, the Commission adopted a resolution urging new legislation to “curb unfair treatment and discrimination against the handicapped.” This action by the Commission was the precursor to the enactment of the Persons With Disabilities Civil Rights Act. The Commission in taking this position knew of the likelihood that the Legislature would not give it additional funds to cover an increased caseload. Nonetheless, it recognized that for too long the disabled in our state suffered discrimination without the ability to obtain redress.
  - In 1975, the Commission held a public hearing on state aid to public schools impacted by desegregation decrees and schools which desegregated voluntarily. This led to the publication of a report highly critical of state agencies for their failure to play a meaningful role in supporting and implementing public school desegregation in Michigan. Particularly egregious was the plight of the Jackson Public School system which desegregated prior to a court order, in effect denying itself the benefit of federal funds given to school districts impacted by court ordered desegregation. The Commission criticized the hands-off attitude of state agencies.
- The years 1972-1975 were an exciting period in the fight for civil rights for all the people in Michigan. That I played some role in the fight is among the fondest memories I have of public service prior to becoming a judge.

## Healthy Communities Initiative Off To A Healthy Start

**O**n Friday, September 19, 2003, MDCR held its first Civil Rights Health: A Community Based Assessment Model workshop. This workshop marked the first time the model was made available to the general public.

The objective of the workshop was to promote the use of a meaningful, nonjudgmental, community-based assessment instrument that will allow individual communities to systematically discern and find ways to improve the state of civil rights health in their respective communities.

Participants were treated to specific information about the model, methods for creating and conducting the research phase, and tips from representatives of the communities that have already used the process. Specifically participants:

- learned to use the assessment model to create realistic goals and a plan to improve civil rights conditions in their communities
- learned a process to assess the civil rights health of their community
- discussed the benefits of bringing people of different backgrounds together to discuss civil rights issues
- gained awareness of how civil rights issues affect various aspects of people's lives
- received information on how to create a collaborative effort whereby various segments of the community (business, education, government, social services, faith-based) can invest in a self-assessment process

The workshop was directed towards municipal and county administrators, council members, city planners, human relations and civil rights professionals, and advocates interested in improving the social and economic conditions in their community. The assessment model is the direct result of a partnership between MDCR and Western Michigan University, and three pilot communities: Muskegon, Midland and Pontiac. The model has already been used successfully in Kalamazoo.

If you are interested in learning more about MDCR's Civil Rights Health Assessment model, call (517) 335-3165 or email to: [MDCR-INFO@michigan.gov](mailto:MDCR-INFO@michigan.gov) for more information.



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# Michigan Educational Association Discourages American Indian Mascots

The Michigan Educational Association (MEA) recently passed a resolution, based in part on a previous Michigan Civil Rights Commission resolution, discouraging the use of American Indian mascots, nicknames and logos. MDCR American Indian Liaison Donna Budnick provided MEA with resource materials. A 500 member representative assembly of Michigan teachers passed the resolution.

## New MEA Resolution

Title: Use of American Indian Mascots, Nicknames, and Logos

Submitted by Rosa Johnson, Vice Chair of the Human Relations Commission

## Text of proposal:

The Michigan Education Association believes that people of all cultures, races, and religions have a right to be treated with dignity and respect.

The Association believes it is important that all students learn about the cultural aspects of various communities so that they will understand cultural norms, develop tolerance, respect differences, and become good citizens and productive adults.

The Association recognizes that some American Indian tribes, organizations, state and local officials, and private citizens find the use of American Indian mascots, nicknames, logos, and symbols within our public schools to be offensive, and further find that their use has a detrimental effect on the educational achievement of American Indian students.

The Association supports and strongly recommends the elimination of American Indian mascots, nicknames, logos,

fight songs, insignias, antics, and team descriptors by all Michigan schools.

## Rationale:

The Michigan Civil Rights Commission and Michigan State Board of Education “encourage all school districts to ensure that instructional materials, course work, policies, and procedures are respectful of cultural differences, enhance cultural competency, and are void of stereotypic language and representations.”

The United States Commission on Civil Rights has called for an end to the use of American Indian images and team names by schools: “Schools should not use their influence to perpetuate misrepresentations of any culture of people. Stereotypes of American Indians teach all students that the stereotyping of minority groups is acceptable, a dangerous lesson in such a diverse society.”

The Michigan State Board of Education supports and strongly recommends the elimination of American Indian mascots, nicknames, logos, fight songs, insignias, antics and team descriptors by all Michigan schools.

The use of “Indian” mascots and logos in our school athletic events, as well as in other community activities, contributes to many stereotypes and misperceptions of American Indians. As long as ‘Indian’ team names, mascots and logos remain a part of school athletic programs, we as educators are tolerating and perpetuating racism and stereotyping.

Most communities are proud of their athletic teams, yet school traditions involving Native American imagery typically reflect little pride in or knowledge of Native cultures. These

traditions have taken the trappings of Native cultures onto the athletic field where young people have played at being “Indian.”

Native people do not feel honored by this symbolism. Instead, they experience it as a mockery of their cultures. Sacred objects that are part of their religion, such as the drum, eagle feathers, face painting and traditional dress, are being used in another culture’s game. This would be similar to depicting the “cross,” for example, at an athletic event.

Depictions of mighty warriors of the past emphasize a tragic part of Native history; focusing on wartime survival. They ignore the strength and beauty of Native American cultures during times of peace.

Native people state that the logos are harmful to their cultures, and especially to their children. When someone tells you that you are hurting him or her by your actions, then the harm becomes intentional if you persist.

MEA has always supported diversity and the appropriate use of terms and materials as it relates to culture. The use of “Indian” mascots, nicknames and logos is inappropriate. (The Michigan Education Association is aware that some individuals prefer the term Native American. According to the 1995 United States Census Bureau survey, 49 percent of the persons asked preferred American Indian and 37 percent preferred Native American. American Indian is also the term used by the Michigan Civil Rights Commission.)

## Director's Corner



*Linda V. Parker, J.D.*

I would like to begin my inaugural message by first extending my deepest gratitude to the Michigan Civil Rights Commission (MCRC) for their unanimous support in selecting me as the director of the Michigan Department of Civil Rights (MDCR). I am both humbled and honored by the Commission's confidence in me, and support of my ability and commitment to advance the cause of civil rights in Michigan. The advancement and protection of civil rights for the people of the state of Michigan is an awe-inspiring responsibility. I assume this responsibility with due thoughtfulness, aggressiveness, diligence and passion.

As I assume my responsibilities as director of MDCR, I do so with deep gratitude for the people of the state of Michigan who in 1963 provided me with civil rights through Article V, Section 29, of the constitution of the state of Michigan. The result was the creation of the eight member bi-partisan MCRC, with a separate statute providing a staff

compliment by establishing MDCR. The constitution, unlike a legislative act, is the spoken word and direct act of 10 million people in the state of Michigan. The people spoke forty years ago and thankfully, the state constitution continues to exist today as a living and breathing document. I am proud to be a life-long resident from a state that had the insight and the courage to speak so definitively.

As an individual who has labored and advocated to ensure basic human dignities for those facing critical challenges in their own lives, I also recognize a moral authority inherent in the obligation and responsibility with which I was entrusted. Human rights and civil rights are inextricably intertwined in that both seek to ensure equality, opportunity and human dignity for every person. My experience in human rights work has allowed me to witness the isolation and humiliation suffered by homeless families, pregnant teens and new mothers struggling with substance addiction. These experiences of human suffering and despair have nurtured my commitment and strengthened my resolve to help improve the quality of life, and ensure basic human dignities for all people regardless of differences.

Civil rights lay a framework of legal protections of freedom and equality and proscribes the manner in which all people should be valued and treated in our democratic society. Human rights recognizes and speaks to the humanity in each individual and their right to be treated to respect, dignity and hope. It is this blended perspective that will allow me to go forward to aggressively protect the civil rights of the people of Michigan from unlawful discrimination with sensitivity to the human issues that are so inextricably intertwined with our work.

As I forge ahead, I do so with the recognition that I am being given charge of a Department that has been reengineered, motivated and so effectively inspired by the able and comprehensive leadership of Nanette Lee Reynolds, Ed.D. The result of her leadership is a Department that is nationally recognized for its operational efficiencies, accessibility and responsiveness to the citizens, and a partner to those communities throughout the state who share the Department's mission to eliminate discrimination.

As I look to the future, my vision is premised on the recognition that we in the state of Michigan are facing some of the most important challenges in defending and continuing to define the state's civil rights laws. The economic climate presents the Commission and the Department with significant challenges. With difficult economic times comes an increase in the pressures placed on civil and human services. Also, while the Supreme Court has recognized diversity as a core value, and certain affirmative actions have been documented and embraced as significant tools to help to facilitate diversity and equality, affirmative action remains under assault.

As the new director, I humbly stand on the shoulders of the civil rights leaders who have come before us in this state and in this nation and commit my mind and heart to aggressively fighting discrimination as it occurs and encourage all of Michigan to embrace principles of equality and the extension of human dignity to all.

# Governor Appoints New Member to MCRC

**M**ark Bernstein was appointed to the Commission in January 2004 by Governor Jennifer M. Granholm. Bernstein is a product of the



Michigan public education system having attended public schools from kindergarten through graduate school. Bernstein attended the University of Michigan

receiving a B.A. in 1993 and completing the J.D./M.B.A. joint-degree program in 1996. While attending law school, he served as associate editor of the Michigan Telecommunications and Technology

Law Review. Mark is a member of the State Bar of Michigan, American Bar Association, Association of Trial Lawyers of America and the Michigan Trial Lawyers Association, where he serves on the Executive Board.

Bernstein is a recipient of the University of Michigan Center for Disability Concerns Certificate of Appreciation Award. He serves as the chairperson of the Community Relations Committee of the Jewish Federation and on the Advisory Board of Jewish Family Services, both in Washtenaw County. Bernstein was recently selected to serve in the Steinberg Young Leadership Program of the Anti-Defamation League.

Bernstein served as director of press pool operations in the White House during the Clinton administration. At the White House, Mark facilitated the Administration's involvement in civil rights related programs focusing on bridging the digital divide, expanding opportunities in finance and banking, and celebrating the legacy of the civil rights movement. Following his government service, he joined Citigroup Global Markets, a leading Wall Street investment bank, as an associate in the Real Estate Investment Banking Group. Mark currently works as an attorney representing the rights of accident victims at The Law Offices of Sam Bernstein. He lives in Ann Arbor with his wife, Rachel.

## Commission and Department News

Following is Department news from November 2003 through January 2004

### Department Says Farewell To Former Director Reynolds

As many of you know by now, MDCR recently said farewell to Nanette Lee Reynolds, Ed.D. who served as director of MDCR from April 1993 to November 2003. Her more



than ten years at the helm makes her the longest serving director in the agency's 40 year history. During her tenure, the Department was successfully reengineered to increase general efficiency and

effectiveness, while adding several new services for Michigan residents. Director Reynolds utilized MDCR's internal diversity and promoted an environment of constant professional growth, both in general skill enhancement and cultural competency, to improve the Department's ability to serve the state's increasingly diverse population.

After taking a well deserved vacation for a few months, Reynolds plans to start her own consulting firm specializing in civil rights related concerns.

### MDCR Receives Outstanding FHAP Award

On November 3, 2003, the U.S. Department of Housing and Urban Development (HUD) awarded MDCR the Outstanding Fair Housing Assistance Program (FHAP) Award. The award was

in recognition of MDCR's outstanding work during the previous fiscal year in furtherance of fair housing for all. Congratulations MDCR!

### MDCR Commission Newsletter and Annual Reports Going Online

Due to budget constraints both the Commission Newsletter and the Annual Report will be moving to an on-line format. You can view each new issue at our website <http://www.mi.gov/mdcr>. If you would like to receive an email letting you know when a new issue is posted, please send an e-mail to [coreh@michigan.gov](mailto:coreh@michigan.gov) or call Harold Core, Public Information Officer at 517-241-3986. For a limited time both publications will remain available in a print format for those without internet access.



# Michigan Court of Appeals Affirms MCRC Finding of Race Discrimination Against Fashion Bug of Detroit

In an unpublished decision, the state of Michigan Court of Appeals voted to affirm the findings by the Wayne Circuit Court and the Michigan Civil Rights Commission (MCRC) that Fashion Bug of Detroit illegally discriminated against a claimant, when she was discharged for a violation of the company's returns policy.

The claimant, who was Black, worked as a sales associate at a Detroit Fashion Bug location. Claimant's sister, who was also Black but was not an employee of Fashion Bug, attempted to return an item purchased by claimant using her employee discount. A manager, who was White and aware of the woman's relationship to claimant, did not allow the claimant's sister to return the item because she did not have a receipt.

Fashion Bug's return policy states that customers are permitted to return items without receipts, but employees must

provide receipts for all returns. Claimant's sister lodged a complaint with Fashion Bug alleging the manager violated the company's return policies by not allowing a customer to return an item without a receipt. The manager countered the allegations by arguing that claimant violated the return policy by returning merchandise without a receipt. Following the corporate office investigation Claimant was terminated for violating the company's return policy, while the manager was not disciplined.

The Commission and court concluded that both claimant and the manager were accused of violating the same company policy regarding exchanges and returns. It was observed that the allegations against the manager were investigated by taking statements from the manager and other White employees present at the time. At the same time, the allegations against claimant were investigated by seeking a statement from only the manager, without

speaking with the claimant or her sister. The court concluded that since both parties were subject to the same rules, the same investigatory and disciplinary procedures should also apply. In addition, the court also concluded that a comment made by the manager during the exchange could be construed as racially derogatory, and could therefore explain why the manager complained about the claimant, which initiated the investigation process, which ultimately lead to claimant's discharge.

Although the trial court affirmed the Commission's decision, the trial court significantly increased the monetary awards to claimant including awards for emotional distress, attorney fees, and back wages. Fashion Bug appealed both the finding of discrimination, and the decision to increase the awards. The Court of Appeals upheld the Commission and trial court findings, as well as the increased award amounts.

## Cesar Chavez Day

In December 2003 Governor Jennifer M. Granholm signed legislation that establishes March 31st as Cesar E. Chavez Day in Michigan. The day commemorates the late civil rights and labor leader who died in 1993.

"Cesar Chavez serves as an inspiration not only to the Hispanic community but to all people who work to improve their communities by fighting discrimination, working for economic equality, and ensuring safe and fair working conditions," Granholm said. "I am pleased to sign this legislation today that recognizes a true American leader and hero."

Granholm and the bill's sponsor, State Senator Buzz Thomas (D-Detroit), participated in a celebratory bill signing at the Cristo Rey Community Center in Lansing. MDCR Director Linda V. Parker, J.D. and several MDCR colleagues were also in attendance. The Cristo Rey center provides programs and services to the area's Hispanic community.

"Cesar Chavez is not only a hero to the Hispanic community but to all people who labor and dream for peace, social justice, and dignity," said Senator Thomas. "This legislation is long overdue. Cesar E. Chavez's legacy has touched

us all, and this fitting recognition will continue to inform future generations of his accomplishments."

Chavez founded the United Farm Workers of America in 1962 as a way to help farm workers improve their working conditions and wages. He employed nonviolent tactics such as boycotts, strikes, and pickets to make people more aware of the working and wage conditions of farm workers.

**MICHIGAN DEPARTMENT OF CIVIL RIGHTS  
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